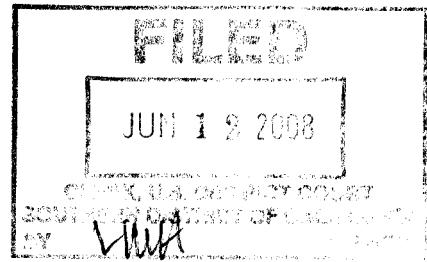


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7 UNITED STATES OF AMERICA

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

11 UNITED STATES OF AMERICA, ) Magistrate Case No. 08MJ1485  
12 Plaintiff, )  
13 v. )  
14 MARGARITO ) **STIPULATION OF FACT AND JOINT  
15 GARCIA-MONDAGON (2), ) MOTION FOR RELEASE OF  
16 Defendant. ) MATERIAL WITNESS(ES) AND  
 ) ORDER THEREON  
 )  
 ) **(Pre-Indictment Fast-Track Program)****

17 **IT IS HEREBY STIPULATED AND AGREED** between the plaintiff, UNITED STATES  
18 OF AMERICA, by and through its counsel, Karen P. Hewitt, United States Attorney, and  
19 Caleb E. Mason, Assistant United States Attorney, and defendant MARGARITO GARCIA-  
20 MONDRAGON, by and through and with the advice and consent of Leila W. Morgan, Federal  
21 Defenders of San Diego, Inc., counsel for defendant, that:

22       1.     Defendant agrees to execute this stipulation on or before the first preliminary hearing  
23 date and to participate in a full and complete inquiry by the Court into whether defendant knowingly,  
24 intelligently and voluntarily entered into it. Defendant agrees further to waive indictment and plead  
25 guilty to the pre-indictment information charging defendant with a non-mandatory minimum count  
26 of Transportation of Aliens and Aiding and Abetting, in violation of 8 U.S.C. §1324(a)(1)(A)(ii)  
27 and (v)(II).

28 //

CEM:es:5/20/08

1       2.    Defendant acknowledges receipt of a plea agreement in this case and agrees to  
2 provide the signed, original plea agreement to the Government not later than five business days  
3 before the disposition date set by the Court.

4       3.    Defendant agrees to plead guilty to the charge pursuant to the plea agreement on or  
5 before **June 16, 2008**.

6       4.    The material witnesses, Miguel Alvarez-Ocampo, Catalino Arroyo and Jose Ramirez-  
7 Espinoza, in this case:

8           a.    Are aliens with no lawful right to enter or remain in the United States;  
9           b.    Entered or attempted to enter the United States illegally on or about  
10 May 12, 2008;

11           c.    Were found in a vehicle driven by codefendant in or near El Cajon, California  
12 and that defendant knew or acted in reckless disregard of the fact that they were aliens with no  
13 lawful right to enter or remain in the United States;

14           d.    Were paying \$500 - \$1,500 to defendant to be brought into the United States  
15 illegally and/or transported illegally to their destination therein; and,

16           e.    May be released and remanded immediately to the Department of Homeland  
17 Security for return to their country of origin.

18       5.    After the material witnesses are ordered released by the Court pursuant to this  
19 stipulation and joint motion, if defendant does not plead guilty to the charge set forth above, for any  
20 reason, or thereafter withdraws his guilty plea to that charge, defendant agrees that in any  
21 proceeding, including, but not limited to, motion hearings, trial, sentencing, appeal or collateral  
22 attack, that:

23           a.    The stipulated facts set forth in paragraph 4 above shall be admitted as  
24 substantive evidence;

25           b.    The United States may elicit hearsay testimony from arresting agents  
26 regarding any statements made by the material witness(es) provided in discovery, and such

1 testimony shall be admitted as substantive evidence under Fed. R. Evid. 804(b)(3) as statements  
 2 against interest of (an) unavailable witness(es); and,

3 c. Understanding that under Crawford v. Washington, 124 S. Ct. 1354 (2004),  
 4 "testimonial" hearsay statements are not admissible against a defendant unless defendant confronted  
 5 and cross-examined the witness(es) who made the "testimonial" hearsay statements, defendant  
 6 waives the right to confront and cross-examine the material witness(es) in this case.

7 6. By signing this stipulation and joint motion, defendant certifies that defendant has  
 8 read it (or that it has been read to defendant in defendant's native language). Defendant certifies  
 9 further that defendant has discussed the terms of this stipulation and joint motion with defense  
 10 counsel and fully understands its meaning and effect.

11 Based on the foregoing, the parties jointly move the stipulation into evidence and for the  
 12 immediate release and remand of the above-named material witness(es) to the Department of  
 13 Homeland Security for return to their country of origin.

14 It is STIPULATED AND AGREED this date.

15 Respectfully submitted,

16 KAREN P. HEWITT  
 17 United States Attorney

18 Dated: 6/12/08.  
 19  
 20 CALEB E. MASON  
 21 Assistant United States Attorney

22 Dated: 6/12/08.  
 23 LEILA W. MORGAN  
 24 Defense Counsel for Garcia-Mondragon

25 Dated: 5/28/2008.  
 26 MARGARITO GARCIA-MONDRAGON  
 27 Defendant

## ORDER

Upon joint application and motion of the parties, and for good cause shown,  
**THE STIPULATION** is admitted into evidence, and,  
**IT IS ORDERED** that the above-named material witness(es) be released and remanded  
forthwith to the Department of Homeland Security for return to their country of origin.

**SO ORDERED.**

Dated:

—



United States Magistrate Judge